

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: JULY 9, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: TABLED - RENOTIFICATION - VAR-31680 - APPLICANT:  
SIEGEL COMPANIES, INC. - OWNER: SAHARA SUITES, LLC**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

**Planning and Development**

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. Any non-permitted signage not part of this Variance application shall be removed within ten (10) days of approval of this application.
3. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**Public Works**

4. The proposed signs shall not be located within the public right-of-way or interfere with Site Visibility Restriction Zones. The sign bases shall not be located within existing or proposed public sewer or drainage easements.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

The applicant is requesting a Variance to allow a proposed 40-foot tall freestanding sign where 12 feet is the maximum height allowed; a Variance to allow for the proposed 40-foot tall freestanding sign to have 344 square feet of sign face area where 48 square feet is the maximum allowed; a Variance to allow the proposed 40-foot tall freestanding sign to be setback zero feet where five feet is required; a Variance to allow the proposed 40-foot tall freestanding sign to have an electronic message board, bare bulbs, and exposed neon approximately 145 feet from a residentially zoned property where Residential Protection Standards require 200 feet; a Variance to allow nine existing five-foot tall freestanding signs and one proposed 40-foot tall freestanding sign where one freestanding sign per street frontage is the maximum allowed; a Variance to allow a distance separation of less than the minimum required 100 feet between freestanding sign to freestanding sign; and a Variance to allow a one-foot setback for the nine, existing five-foot tall freestanding signs where five feet is the minimum required on 2.27 acres at 2825 and 2829 West Sahara Avenue. The Variances requested represent a 27 to a 900 percent deviation from the Title 19 standard.

This is a self imposed hardship that could be easily rectified by proposing signage for the site that meets Title 19.14 standards. Due to the intensity and excessive number (seven in total) of Variances requested with this application staff can not support this request and is recommending denial of all Variances requested.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
10/18/05	Code Enforcement processed a case (#35447) for a complaint of a broken drainage gutter overflowing and flooding near apartment #12 at 2829 West Sahara Avenue. The case was resolved on 11/03/05.
06/07/06	Code Enforcement processed a case (#43053) for a complaint of a broken drainage gutter overflowing and flooding near apartment #12 at 2829 West Sahara Avenue. The case was resolved on 06/15/06.
06/19/06	Code Enforcement processed a case (#43556) for a complaint of a green pool at 2829 West Sahara Avenue. The case was resolved on 06/29/06.
06/30/06	Code Enforcement processed a case (#43964) for a complaint of a leaking hot water heater that maintenance shut-off, broken toilet, no water for three days, and a toilet leaking water all over carpet at 2825 West Sahara Avenue. The case was resolved on 07/03/06.
07/26/06	Code Enforcement processed a case (#44862) for a complaint of plumbing problems at 2829 West Sahara Avenue. The case was resolved on 08/01/06.

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08/14/06	Code Enforcement processed a case (#45449) for a complaint of tenants not having water for several days, and tenants bathing in the swimming pool at 2829 West Sahara Avenue. The case was resolved on 08/16/06.
09/13/06	Code Enforcement processed a case (#46206) for a complaint of no hot water, problems with the air conditioning, the entry door not closing properly, and plumbing and electrical problems at 2825 West Sahara Avenue. The case was resolved on 08/16/06.
10/06/06	Code Enforcement processed a case (#46914) for a complaint of a dilapidated stairway that someone fell off of at 2829 West Sahara Avenue. The case was resolved on 11/02/06.
01/05/07	Code Enforcement processed a case (#48987) for a complaint of electrical problems, no covers on electrical outlets, bugs, roof caving in, water leaks, mold, plumbing problems, mildew in bathroom and kitchen, carpet has a smell of mold, windows don't lock, and have no insulation at 2829 West Sahara Avenue. The case was resolved on 02/14/07.
12/18/08	The Planning Commission approved a request by the applicant to have Variance (VAR-31680) to be held in abeyance until the January 22, 2009 Planning Commission meeting.
01/22/09	The Planning Commission approved a request by the applicant to have Variance (VAR-31680) to be held in abeyance until the February 26, 2009 Planning Commission meeting.
<b><i>Related Building Permits/Business Licenses</i></b>	
1962	Building constructed.
07/13/01	A building permit (#01012766) was issued to replace a water heater at 2829 West Sahara Avenue. The permit expired on 06/22/02.
04/09/04	A building permit (#04008053) was issued for electrical repairs at 2829 West Sahara Avenue. The permit was finalized on 04/12/04.
01/10/07	A business license (#A07-00584) was re-issued for apartment rentals after a change of ownership at 2500 Teddy Drive.
<b><i>Pre-Application Meeting</i></b>	
09/22/08	A pre-application meeting was held where the submittal requirements for a sign Variance were discussed.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting was not required, nor was one held.	

<b><i>Field Check</i></b>	
09/18/08	A routine field check was conducted, and staff observed the nine five-foot non-permitted freestanding signs that are part of this Variance application. Staff also observed an additional non-permitted sign that is not part of this Variance application: a seven to eight-foot tall freestanding sign along the frontage road next to the pool area. The apartment complex appeared to have been recently painted.
01/02/09	A follow-up field check performed by staff revealed no changes from the prior field check performed on 09/18/08.

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<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	2.27

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Apartments	SC (Service Commercial) & H (High Density Residential)	R-3 (Medium Density Residential)
North	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
South	Single-Family Residential	L (Low Density Residential)	R-1 (Single Family Residential)
East	Restaurant	SC (Service Commercial)	C-1 (Limited Commercial)
West	Tavern	SC (Service Commercial)	C-1 (Limited Commercial)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	N/A
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>	X		Y
A-O (Airport Overlay) District – 175 Feet	X		Y
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

**A-O Airport Overlay District – 175 feet**

No structure shall be erected, altered or maintained on any parcel within the boundaries of the Airport Overlay District that would violate the height limitations defined by the McCarran Airport Overlay Map and the North Las Vegas Airport Overlay Map. The subject site is within the 175-foot contour limitations and does not violate the height limitations set forth by the Airport Overlay District as the proposed signage does not exceed the height limitation of 175 feet.

**DEVELOPMENT STANDARDS**

<b>Freestanding Signs: [Proposed 40-Foot Freestanding Sign]</b>		
<b>Standards</b>	<b>Allowed</b>	<b>Provided</b>
Maximum Number	1 per Street Frontage	10 total*
Maximum Area	48 SF	344 SF**
Maximum Height	12 Feet	40 Feet***
Minimum Setback	5 Feet	Zero Feet****
Illumination	Internal and external illumination. In addition, signs over 200 feet from any existing residential property or from property which is designated in the General Plan for future residential development may be animated or contain an electronic message unit.	Proposed 40-foot tall freestanding sign with internal illumination, an electronic message unit, bare bulbs, and exposed neon approximately 145 feet from residentially zoned property.*****

\* The applicant is requesting a Variance to allow one proposed 40-foot tall freestanding sign and nine existing five-foot tall freestanding signs for a total of ten freestanding signs.

\*\*The applicant is requesting a Variance to allow a proposed 40-foot tall freestanding sign with a face area of 344 square feet where 48 square feet is the maximum area allowed.

\*\*\*The applicant is requesting a Variance to allow a proposed 40-foot tall freestanding sign where 12 feet is the maximum height allowed.

\*\*\*\*The applicant is requesting a Variance to allow a zero-foot setback for the proposed 40-foot tall freestanding sign where five feet is required.

\*\*\*\*\*The applicant is requesting a Variance to allow an electronic message board, bare bulbs, and exposed neon on the proposed 40-foot tall freestanding sign approximately 145 feet from a residentially zoned property where Residential Protection Standards require 200 feet.

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<b>Freestanding Signs: [Nine, Existing Five Freestanding Signs]</b>		
<b>Standards</b>	<b>Allowed</b>	<b>Provided</b>
Maximum Number	1 per Street Frontage	10 total*
Maximum Area	48 SF	5.34 SF
Maximum Height	12 Feet	5 Feet
Minimum Setback	5 Feet	1-Foot**
Illumination	Internal and External Illumination.	No Illumination

\* The applicant is requesting a Variance to allow for one proposed 40-foot tall freestanding sign and nine existing five-foot tall freestanding signs for a total of ten freestanding signs.

\*\*The applicant is requesting a Variance to allow a one-foot setback where five feet is the minimum setback required for the nine existing five-foot tall freestanding signs.

<b>Variances</b>		
<b>Request</b>	<b>Requirement</b>	<b>Staff Recommendation</b>
One Proposed 40-Foot Tall Freestanding Sign	12-Foot Freestanding Sign	Denial
40-Foot Tall Freestanding Sign with 344 SF Sign Face	48 SF	Denial
Zero-Foot Setback for Proposed 40-Foot Tall Freestanding Sign	5 Feet	Denial
Ten Freestanding Signs	One Freestanding Sign	Denial
One-Foot Setback for Nine Existing Five-Foot Tall Freestanding Signs	5 Feet	Denial
Less Than 100-Foot Distance Separation between Freestanding Signs	100 Feet	Denial
Approximately 145-Foot Residential Protection for Electronic Message Board, bare bulbs, and Exposed Neon	200-Foot Residential Protection Standard for Electronic Message Board, Bare Bulbs, and Exposed Neon	Denial

## **ANALYSIS**

- **Proposed 40-Foot Freestanding Sign**

The applicant has requested a Variance to allow for a 40-foot tall freestanding sign to be constructed at the northwest corner of the site adjacent to Sahara Avenue where 12 feet in height is the maximum allowed. An additional Variance has been requested to allow for this sign to have a sign face of 344 square feet where 48 square feet is the maximum allowed. The proposed sign would have an aluminum base and pole covered with simulated stucco. The proposed elevation shows the base of the sign being painted a dark brown and the pole of the sign being painted a light tan. The sign face itself would be an aluminum faced cabinet with a map satin finish colored reflex blue with animated vertical lines of blue neon to be on a 3 point flashing chaser. The sign will also have steadily burning White, Yellow Gold II and Horizon Blue Neon trim around the sign and incorporated throughout the face of the sign with the lettering. The word "Sahara" would be lit with incandescent bare bulbs. Approximately 21 feet from the base of the sign, below the sign face, would be a four-foot tall aluminum faced animated LED display (reader board). The proposed height of the sign represents a 233 percent deviation and the proposed sign face represents a 617 percent deviation from code standard.

In addition, the applicant has requested a Variance from the Residential Protection Standards. Directly south of the subject site are single-family residences located within an R-1 (Single Family Residential) zoning district. Title 19.14 states that, "If the sign is located more than 40 feet from the property planned or zoned for residential use but within 200 feet of such property and the sign is or will be visible from such property, it may be interior-lit or lighted with direct white light, but it shall not contain bare bulbs, exposed neon tube, animation or a electronic message unit." The proposed 40-foot freestanding sign contains all of the above mentioned; bare bulbs, exposed neon tube, animation, and an electronic message board. The installation of a freestanding sign containing these elements is not only a violation of the Title 19.14 Residential Protection Standards, but extremely intrusive to the adjacent neighbors that are approximately 145 feet away from this proposed sign.

- **Nine (9) Existing Five-Foot Freestanding Signs**

The applicant has requested a Variance to allow nine existing five-foot tall freestanding signs, as well as the proposed 40-foot tall freestanding sign to exist where one freestanding sign per street frontage is allowed. An additional Variance is being requested to allow for the nine existing five-foot tall signs to be setback one-foot where five feet is required. The applicant has also requested a Variance for those signs to be located with less than the required minimum distance separation of 100 feet in between each freestanding sign.

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The proposed 40-foot tall sign is to be located approximately 50 feet east of the west property line. There is one existing five-foot tall sign located 35 feet to the west of the proposed sign, with the remaining existing five-foot tall signs located to the east of the proposed sign at intervals of 20, 129, 50, 50, 50, 50, 50 and 52 feet. The frontage road adjacent to Sahara Avenue would have a total of ten signs located within approximately 840 feet of street frontage. The applicant provided a figure of 1,045 feet of street frontage, but that figure also included the restaurant which is not part of this application. The percent of deviation for the distance separation of said signs is noted in the chart below.

The nine five-foot tall freestanding signs exist today on the subject site. These existing five-foot tall freestanding signs are a double faced non-illuminated post mounted sign that carry a commercial message (i.e. company name and logo). These signs were posted without building permits and are positioned along the frontage road that separates the apartment complex from Sahara Avenue. There is also a non-permitted seven to eight-foot tall freestanding sign located along the frontage road next to the pool area. This sign is not part of this Variance application and a condition has been added for its removal upon approval of this application.

<b>Variances</b>			
	<b>Allowed</b>	<b>Provided</b>	<b>% of Deviation</b>
<b>40-Foot Freestanding Sign</b>	In an R-3 (Medium Density Residential) zone, a maximum height of 12 feet, and a maximum area of 48 square feet.	A 40-foot tall Freestanding Sign with a sign area of 344 square feet.	233% for the sign height; 617% for the sign area.
<b>Number of Freestanding Signs Allowed</b>	One (1) per street frontage.	Ten (10) Freestanding Signs	900%
<b>Distance Separation</b>	Minimum separation of 100 feet measured along the street frontage.	From West to East: 35, 20, 129, 50, 50, 50, 50, 50, and 52, Feet.	65%, 80%, In Compliance, 50%, 50%, 50%, 50%, and 48%, respectively.
<b>40-Foot Freestanding Sign Setback</b>	5 Feet	Zero Feet	100%
<b>Nine (9) 5-Foot Freestanding Signs Setback</b>	5 Feet	One-Foot	80%
<b>Residential Protection Standards</b>	200 Feet	Approximately 145 Feet	27%



## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing signage that exceeds the allowable height, sign area, number of freestanding signs, minimum setback requirements, sign separation requirements, and Residential Protection Standards allowed by Title 19. An alternative number of signs, sign placement and design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

16

**ASSEMBLY DISTRICT**      10

**SENATE DISTRICT**      3

**NOTICES MAILED**      254

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**APPROVALS**                      3

**PROTESTS**                      23